IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5460 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

G V BAPLANDE

Versus

STATE OF GUJARAT

Appearance:

MR BP TANNA for Petitioner

MR Pujari, AGP for Respondent No. 1

CORAM : MR.JUSTICE C.K.THAKKAR

Date of decision: 18/02/2000

ORAL JUDGEMENT

This petition is filed for an appropriate writ, direction or order quashing and setting aside the order of reversion passed by the Manager, Government Central

Press, Gandhinagar,respondent No.3, (Annexure `A') to the petition. By the said order, petitioner who was working as Security Inspector on purely stop gap and adhoc basis was once again reverted to his original post of Mono Caster Attendant.

The case of the petitioner was that he was working as Mono Caster Attendant. By an order, dated August 4, 1986 (Annexure `B'), he was promoted to the post of Security Inspector in the pay scale of Rs. 425.600 (revised scale - Rs. 1400-2300). By the impugned order dated September 30, 1987, he was reverted to his original post of Mono Caster Attendant in the pay scale of Rs. 260-430 (revised scale Rs 1150-1500). According to the petitioner, the order (Annexure `A') was illegal, unreasonable and required to be quashed and set aside.

Rule was issued on February 23, 1888 and today the matter is taken up for final hearing.

It was contended by Mr. B.P.Tanna, Senior advocate of Tanna Associates that the order of reversion is illegal and contrary to law inasmuch as before passing the impugned order, principles of natural justice were not observed. He also contended that the order is arbitrary, unreasonable and violative of Articles 14 and 19 of the Constitution of India. He further contended that there is colourable exercise of power and the action is mala fide inasmuch as on the basis of certain representations and applications made by office bearers of the union, the petitioner came to be reverted. Since the action, in the submission of the learned advocate, was punitive in nature, it could not have been taken without issuing notice calling for explanation and affording reasonable opportunity of being heard. He,therefore, submitted that the petition deserves to be allowed.

Mr. Pujari, learned AGP, on the other hand, supported the order passed by the authorities. Drawing my attention to an affidavit filed by the Manager, Central Press, respondent No.3, he submitted that , in fact, there was no promotional post to which the petitioner was working. Through mistake and oversight, it was considered as promotional post. But even if it is assumed for the sake of argument that the post was promotional in nature, such promotion was purely adhoc and by way of stop gap arrangement and he had no lien over it. In these circumstances, he could be reverted to his substantive post. Regarding allegations of mala fides and colourable exercise of power, Mr. Pujari submitted that the persons against whom allegations have

been made have not been made parties to the petition. Moreover, no concrete materials and/or facts have been mentioned in the petition . It was,therefore, difficult to appreciate the contention in absence of concrete materials. He also submitted that general allegations levelled by the petitioner came to be denied by filing an affidavit.

In the facts and circumstances, in my opinion, the petition deserves to be dismissed. So far as so called promotion is concerned, as it was stated, it was not promotion but it was a posting as Supervisor. The petitioner was holding substantive post of Mono Caster Attendant . Even if he was working for some time as Security Inspector, it was a stop gap and adhoc arrangement. He could,therefore, be asked to go to his original post on which he was having lien viz. Mono Caster Attendant. Therefore, it could not be objected to by the petitioner.

Regarding allegations of mala fides, in my opinion, the learned AGP is right in contending that no material whatsoever has been placed on record and vague and general allegations were denied . Even that contention, therefore, cannot be upheld.

For the foregoing reasons, in my opinion, it cannot be said that the order impugned in the present petition suffers from any vice. The petition deserves to be dismissed and is accordingly dismissed. Rule is discharged. No order as to costs.

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parekh